

CERTIFIED
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In The Matter Of:

*Allan Chiocca v. THE TOWN OF ROCKLAND,
DEIRDRE HALL, EDWARD KIMBALL, LARRY
RYAN, MICHAEL MULLEN JR., MICHAEL
O'LOUGHLIN, RICHARD PENNEY AND KARA
NYMAN,*

Marcia Birmingham

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<p>1 women to work in. Again, I will only speak for 2 myself, didn't feel comfortable bringing some of the 3 concerns that I had forward without fear that it 4 would affect my position. 5 BY MS. CIESLAK: 6 Q Did you ever talk to Deirdre about 7 Mr. Chiocca's management style? 8 A Yes. I can recall one occasion when I 9 spoke with Deirdre about Mr. Chiocca's management 10 style. 11 Q What was discussed at that time? 12 A We discussed that the town hall seemed to 13 discriminate toward women in the workplace, that it 14 was a general culture of women being in support 15 positions, perhaps not leadership, as much in that 16 comments were often made around the town hall that 17 weren't appropriate, and there was really no HR 18 follow-up on those comments. 19 Q Do you recall around when this 20 conversation occurred? 21 A It would have been the last year or so of 22 my employment with the Town, because Deirdre didn't 23 come on the board until the last 18 months to 24 two years. I didn't know her very well in the 25 beginning, though we had a conversation that I</p>	<p>Page 29</p> <p>1 A Yes, she did. Well, I believe at first 2 she wasn't going to go and then she came into my 3 office and changed her mind and said she was going 4 to attend. 5 Q Did Mr. Chiocca make the decision to not 6 go at the point that Ms. Hall had indicated that she 7 wasn't going to go? 8 A I believe he did, yes. 9 Q So even though Ms. Hall had indicated she 10 wasn't going to go, Mr. Chiocca had indicated he 11 also wasn't going to go? 12 A No, I'm sorry. I misunderstood you. 13 So, Mr. Chiocca was going. They 14 didn't want to go together. So, the best way to say 15 this, Allan decided not to go when he realized that 16 Deirdre was definitely going. 17 Q Okay. Then I want to go back to Regina's 18 reports. Have you had an opportunity to review 19 Regina Ryan's report? 20 A Not recently. I read it years ago. I 21 haven't read it recently. 22 Q As you sit here, to the best of your 23 recollection, do you recall anything being 24 inconsistent with what you told Ms. Ryan? 25 A Yes, I do. At the time when I read the</p>
<p>Page 30</p> <p>1 recall in the car on the way to Boston to accept an 2 award for a grant that the Town had received. 3 That's the conversation that I just described to 4 you. That would have been in April or May of 2018, 5 right before Mr. Chiocca left the Town. 6 Q You had indicated that that was April or 7 May. My notes reflect that there was a grant 8 ceremony in Boston at the statehouse on May 14th. 9 Do you think that is the trip that you're talking 10 about? 11 A It is. That's correct. 12 Q Okay. My understanding is that 13 Mr. Chiocca did not attend the ceremony. 14 A That's correct. 15 Q Did he indicate to you why he was not 16 going to attend the ceremony? 17 A He did. 18 Q What was that reason? 19 A That he wasn't comfortable going with 20 Ms. Hall; so, he asked me to represent the Town at 21 the ceremony with her. 22 Q At what point did Ms. Hall indicate to you 23 that she was going to attend that ceremony? 24 A She came into my office that morning. 25 Q She told you at that point?</p>	<p>Page 31</p> <p>1 report, I felt that she misrepresented what I shared 2 about Mr. Chiocca's and Ms. Hall's relationship. 3 Ms. Ryan seemed to interpret it that I felt Ms. Hall 4 had put pressure on Mr. Chiocca or had him -- or 5 that he felt like he was a victim of sexual -- or 6 that I felt he was a victim, and I did not feel that 7 way. What I tried to explain to Ms. Ryan was that I 8 felt like, in my opinion, what went on between 9 Mr. Chiocca and Ms. Hall was probably consensual. 10 That it was a very ugly and complicated situation, 11 but Allan was a very experienced town administrator, 12 and he -- I believe he knew that he had resources if 13 Ms. Hall were putting sexual harassment pressure on 14 him that he knew he could use. 15 Q Did Mr. Chiocca -- actually, other than 16 what you've already told me, any disparaging 17 comments that Mr. Chiocca made about Ms. Hall that 18 you shared with Regina Ryan? 19 A I don't remember. 20 Q Do you recall sharing with Regina Ryan the 21 comment that Ms. Hall was more masculine? 22 A Yes, I do. Yes, Mr. Chiocca did make that 23 statement. 24 Q After May 1st of 2018, did Mr. Chiocca 25 tell you that while Sue Ide was on vacation, that if</p>

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1 in July of 2015; is that correct?

2 A Yes.

3 Q Paragraph 15 says, "Ms. Hall and
4 Mr. Chiocca shared a mutual distrust for each other
5 and on many occasions could be heard arguing in
6 Mr. Chiocca's office. It was not uncommon for each
7 to make disparaging comments about two other town
8 employees."

9 Are those statements -- do you
10 believe those to be true?

11 A Yes, I do.

12 Q What disparaging comments do you recall
13 Ms. Hall making about Mr. Chiocca, if any?

14 A Ms. Hall I believe stated that Mr. Chiocca
15 wanted, you know, to have control over the business
16 of the board. He would prefer that the board had
17 more autonomy than what was happening at the time.

18 MR. CROTTY: Marcy, could you either
19 adjust your volume or move the screen a little bit
20 closer to you?

21 THE WITNESS: Sure, I'll try. It could be
22 the WiFi because we don't have high-speed internet
23 at the lake in Vermont, so --

24 MR. CROTTY: If you increase your volume,
25 we'll see if that's good.

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1 BY MR. SHAFRAN:

2 Q Do you see paragraph 58, Ms. Birmingham?

3 A Yes, I do.

4 Q It says, "After May 1st, Mr. Chiocca told
5 Ms. Birmingham and Ms. Callahan that he did not want
6 to be left alone in his office with Ms. Hall and to
7 make sure that his door stayed open when she came in
8 to town hall," and that's attributed in part to an
9 interview with you. Do you believe that statement
10 to be factually accurate?

11 A Yes, I do.

12 Q Do you recall that after May 1st that
13 Mr. Chiocca was making a concerted effort to avoid
14 Ms. Hall?

15 A Yes, he was.

16 Q Describe to me how he was doing that.

17 A He chose not to attend business outside of
18 the town hall if she was going to be there. He
19 called and asked me if I would be available to come
20 up and be there if she came into the town hall or
21 his office.

22 Q Can you say the same for Ms. Hall? Was
23 she making a concerted effort to avoid Mr. Chiocca
24 after May 1st?

25 MS. ZUCKER: Objection.

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1 A I honestly don't know.

2 BY MR. SHAFRAN:

3 Q You talked about two events I believe that
4 you attended. Do you recall that testimony earlier?

5 A Yes, I do.

6 Q One was on May 14th, I believe, and one
7 was a few days later on May 17th of 2018. Do you
8 recall talking about that?

9 A Yes, I do.

10 Q The May 14th event, that was an event at
11 the statehouse, correct?

12 A Yes, that is correct.

13 Q Do you have any recollection of who was
14 initially planning on attending that event?

15 A Initially, Mr. Chiocca was supposed to
16 attend the event.

17 Q With you?

18 A Yes, that's correct.

19 Q Just the two of you?

20 A Yes.

21 Q Was that -- do you know whether this was
22 generally known among town hall, that the two of you
23 were going to that event?

24 A I mean, I imagine that Susan Ide knew.

25 Within the board of selectmen's office, it would

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1 have been generally known.

2 Q At some point you learned that Ms. Hall
3 was going to attend the event or wanted to attend
4 the event, correct?

5 A As I recall, Mr. Chiocca himself told me
6 that Ms. Hall was going to attend the event.

7 Q Do you know or have any understanding of
8 whether Ms. Hall knew that Mr. Chiocca was planning
9 to attend?

10 A I don't know.

11 Q But your testimony is that as soon as
12 Mr. Chiocca found out that Ms. Hall was attending,
13 he decided not to attend, correct?

14 A That's correct.

15 Q Okay. And then on May 17th, a few days
16 later, there was -- I believe it was an MAPC
17 meeting; is that right?

18 A (No response.)

19 Q Do you know who from the Town was
20 originally planning -- excuse me. Do you know who
21 from the Town was originally planning to attend that
22 event?

23 A Mr. Chiocca and myself.

24 Q And at least as of the beginning of that
25 day, is that your understanding of the only

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<p>1 (Off the record.) Page 97</p> <p>2 BY MR. SHAFRAN:</p> <p>3 Q You would agree at this time that Allan</p> <p>4 was avoiding Deirdre, but Deirdre was not avoiding</p> <p>5 Allan, correct?</p> <p>6 MS. ZUCKER: Objection.</p> <p>7 BY MR. SHAFRAN:</p> <p>8 Q You would agree?</p> <p>9 A Yes.</p> <p>10 Q Okay.</p> <p>11 A I can't -- I can't speak for Deirdre. I</p> <p>12 didn't interact with Deirdre on a daily basis. I'm</p> <p>13 sorry. I can't speak to whether she was avoiding</p> <p>14 Allan or not.</p> <p>15 Q My question is only to your own</p> <p>16 perceptions.</p> <p>17 Was it your perception at the time</p> <p>18 that Allan was avoiding Deirdre, but Deirdre was not</p> <p>19 avoiding Allan?</p> <p>20 A Yes.</p> <p>21 Q If you could direct your attention to</p> <p>22 footnote 9, it says, "At this time, Ms. Birmingham,</p> <p>23 Ms. Ide and Ms. Callahan were in contract</p> <p>24 negotiations with the Town. At their interviews,</p> <p>25 all denied that Mr. Chiocca ever made sexual</p>	<p>1 she would be attending, and he put Ms. Birmingham Page 99</p> <p>2 and Ms. Callahan on notice that he did not want to</p> <p>3 be alone with her." Is that -- the final part of</p> <p>4 that sentence as it relates to you accurate?</p> <p>5 A Yes.</p> <p>6 MS. ZUCKER: Objection.</p> <p>7 BY MR. SHAFRAN:</p> <p>8 Q So, that's everywhere in this report where</p> <p>9 your name is mentioned. Is there any other --</p> <p>10 having had the opportunity to look at the report</p> <p>11 again now, is there any statement in the report that</p> <p>12 Ms. Ryan attributed to you that you believe is</p> <p>13 incorrect?</p> <p>14 A No. Having read the report, there is not.</p> <p>15 Q Okay. When you read the report for the</p> <p>16 first time, did you disagree with the conclusion</p> <p>17 that Mr. Chiocca was a victim of sexual harassment?</p> <p>18 A Yes, I did.</p> <p>19 Q And what evidence did you have to support</p> <p>20 that determination that you made?</p> <p>21 A I worked closely with Mr. Chiocca for four</p> <p>22 years and he's a very strong-minded individual and</p> <p>23 isn't easily taken advantage of or fooled.</p> <p>24 He's also a very experienced town</p> <p>25 administrator who knew that he had the resources of</p>
<p>1 advances or comments with regard to their contract." Page 98</p> <p>2 Is that factually accurate?</p> <p>3 A Yes, that's accurate.</p> <p>4 Q That's accurate?</p> <p>5 A Yes, that's accurate.</p> <p>6 I'm sorry. Are you still having</p> <p>7 trouble hearing me?</p> <p>8 Q No. Did Mr. Chiocca ever come on to you?</p> <p>9 A No, no. He did not.</p> <p>10 Q How long did you work with Mr. Chiocca</p> <p>11 for?</p> <p>12 A Four years.</p> <p>13 Q Are you aware of any other female in town</p> <p>14 hall ever alleging that Mr. Chiocca made</p> <p>15 inappropriate sexual advances towards them?</p> <p>16 MS. ZUCKER: Objection.</p> <p>17 A No.</p> <p>18 BY MR. SHAFRAN:</p> <p>19 Q Nobody ever made that allegation to you?</p> <p>20 A Not that I'm aware of.</p> <p>21 Q So, the last statement in here that</p> <p>22 contains your name says, "Specifically Mr. Chiocca</p> <p>23 applied for a job in the town of Marblehead after</p> <p>24 the incident because he knew he could not work with</p> <p>25 her. When he could, he would avoid meetings that</p>	<p>1 the entire board of selectmen and town council. If Page 100</p> <p>2 Ms. Hall were pressuring him into a sexual</p> <p>3 relationship, I would be surprised if he did not use</p> <p>4 those resources in order not to be in the position</p> <p>5 that they ended up in.</p> <p>6 Q Is it your belief that someone who's</p> <p>7 strong-minded and experienced can't be a victim of</p> <p>8 sexual harassment?</p> <p>9 MR. CROTTY: Objection to form.</p> <p>10 A No, that's not my belief. I still believe</p> <p>11 that what happened between Mr. Chiocca and Ms. Hall</p> <p>12 was consensual. That's just my personal opinion</p> <p>13 based on my knowledge of them as people and</p> <p>14 coworkers.</p> <p>15 BY MR. SHAFRAN:</p> <p>16 Q Notwithstanding your entire reading of the</p> <p>17 report?</p> <p>18 MS. ZUCKER: Objection.</p> <p>19 MR. CROTTY: Objection.</p> <p>20 A I still believe that the report states the</p> <p>21 facts, but it doesn't -- Ms. Ryan didn't ask any of</p> <p>22 the underlying dynamics that those of us who were</p> <p>23 close employees knew were present, which was that</p> <p>24 Mr. Chiocca was very used to managing the board of</p> <p>25 selectmen and Ms. Hall and Mr. Chiocca really didn't</p>

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<p>1 would be a good fit before he offered me a permanent 2 position. 3 Again, Adam, I'm not trying to -- 4 Q I understand, Marcy. 5 The examples you just gave, do you 6 not view that as Mr. Chiocca trying to challenge 7 you? 8 MS. CIESLAK: Objection. 9 MS. ZUCKER: Objection. 10 MR. CROTTY: Objection. 11 MS. ZUCKER: You can answer. 12 A Would he have challenged a younger male 13 coworker in the same manner I guess is my question. 14 BY MR. SHAFRAN: 15 Q But you don't know that, do you? 16 MS. ZUCKER: Objection. 17 BY MR. SHAFRAN: 18 Q I want to talk about some of the 19 responsibilities that he gave you. Do you recall 20 working on a grant to help Rockland become ADA 21 compliant? 22 A Yes, I do. 23 Q Describe to me what responsibilities Allan 24 gave you in that regard. 25 A In most of my grants -- well, I managed a</p>	<p>Page 117</p> <p>1 Q Do you recall her giving a speech at all 2 about her involvement in the ADA project? 3 A I'm sorry. Not really, no. 4 Q You don't recall watching a video with 5 Mr. Chiocca about a speech that she gave at the 6 Plymouth County Democratic League? 7 A I honestly don't. 8 Q Okay. Mr. Chiocca. You understood that 9 he was your boss, right? 10 A Yes, I did. 11 Q And he had the authority -- 12 A Yes. 13 Q -- to oversee your employment, right? 14 A Yes. 15 Q Do you know anyone else who reported 16 directly to Allan while you were employed by the 17 Town? 18 A Yes. 19 Q Can you tell me who those individuals are? 20 A Susan Ide, his executive assistant; 21 Tracy Callahan, the human resources coordinator; 22 Tom, the building inspector. 23 THE WITNESS: I'm sorry, I just lost -- 24 Adam, are you still -- do I still have -- 25 (Off the record.)</p> <p>Page 119</p>
<p>1 number of grants for the Town, and that one was 2 similar to others. It was applying for the grant, 3 receiving the funds, managing the grant application, 4 filing the budget with the state, or whoever we 5 received the grant from, to close it out. And they 6 were mostly reimbursable grants. 7 Q Who did you work with on that grant, 8 specifically? 9 A I worked with the building commissioner 10 and his assistant. I worked with a committee, an 11 ADA committee that was appointed by the Town, which 12 was comprised of some employees and some residents 13 in town. And Allan was somewhat involved. I 14 believe Allan participated as well. 15 Q Did anybody else play a role in that that 16 you can recall? 17 A Well, yes. I'm sorry. Ms. Hall was on 18 that committee as well. 19 Q Which committee was that? 20 A I'm sorry. I believe she helped with the 21 ADA project. I had different selectmen working on 22 all of my projects. So, at this point, it's hard 23 for me to remember who was on which project this 24 many months later. But I believe Ms. Hall 25 participated in the ADA grant as well.</p> <p>Page 118</p>	<p>1 A Tom Ruble, the building inspector. The 2 governance was a little bit funky because they had 3 some employees who were appointed and some who were 4 elected, but Mr. Chiocca had a handful of direct 5 reports. 6 BY MR. SHAFRAN: 7 Q I'm sorry. I just wanted to get the list. 8 It's Ide, Callahan and Tom Ruble, you said? 9 A Yup. I'm trying to think who else would 10 have been a direct report to Mr. Chiocca at that 11 time. A number of department heads were either 12 elected or, you know, didn't report to the town 13 administrator because of the way the town charter 14 was written. 15 Q It was just those individuals, as far as 16 you know? 17 A There may be one or two more, Adam. 18 Again, it's been a while since I've looked at the 19 town hall organization chart. 20 Q Okay. Do you recall giving Allan a bottle 21 of wine for his birthday in 2018? 22 A Yes, I do. I do. 23 Q Why did you decide to do that? 24 A Because he and his wife enjoyed that 25 certain kind of wine and it seemed like a nice</p> <p>Page 120</p>

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<p>1 gesture to give him a bottle of wine that he could 2 enjoy with her for his birthday. 3 Q He didn't ask you for it, did he? 4 A No, he did not. 5 Q Did you ever see alcohol in Mr. Chiocca's 6 office over the course of your employment other than 7 that bottle? 8 A No, I did not. 9 Q How often would you say on a weekly basis 10 you were in Mr. Chiocca's office? 11 A Daily. 12 Q You were in his office every single day 13 for four and a half years? 14 A I would guesstimate almost every day. 15 Unless he was on vacation or I was off site for 16 something, we worked together very closely. 17 Q And not once in that entire occasion, over 18 that entire time frame can you recall seeing alcohol 19 in his office? 20 A No, I did not. 21 Q Do you ever recall seeing wine in the 22 selectmen's office around Christmastime? 23 A Yes. 24 Q Fair to say that for special events -- 25 birthdays, holidays -- it wouldn't be surprising to</p>	<p>1 the Town. 2 Q Do you recall any of the individuals who 3 were present on those occasions? 4 A Yes, I do. 5 Q Describe to me everyone you recall being 6 there. 7 A I recall Mr. Chiocca and Mr. Mullen, 8 Mr. Kimball. Occasionally Janice McCarthy, who 9 worked for the board of health. Stacy -- 10 Ms. Callahan would be there occasionally. Then 11 there were a few volunteers for the Town who would 12 go and hang out with people when they were there. 13 If you would like -- do you want names of residents 14 as well? 15 Q No, just the town employees. 16 Would all of those people typically 17 be drinking when you were there? 18 A Yes. 19 Q Were those events generally -- what time 20 of day did those typically occur? 21 A 4:00, 4:30 in the afternoon, after the 22 town hall would close. 23 Q And is it your recollection that all of 24 those people would drive themselves home? 25 A Yes, that's my recollection.</p>
<p>1 see some wine or alcohol around town hall? 2 A I think that's fair to say. 3 Q But, other than that, you have no 4 recollection of seeing it otherwise? 5 A That's correct. 6 Q Correct? 7 A Yes, correct. 8 Q Did you have, over the course of your 9 employment, any technical issue related to your 10 computer or any other type of device you used at 11 work, something malfunctioning or not working? 12 A Yeah, sure. I mean, yes, occasionally. 13 Q Who would you typically go to for that? 14 A Typically we would go to Eric Hart who was 15 also the Town accountant, and he also handled our 16 technology issues. 17 Q Issues like that, they're not something 18 that you would have gone to Allan to fix, generally 19 speaking, correct? 20 A No. 21 Q I think you testified you went to the 22 Rockland Bar & Grill on at least a few occasions; is 23 that right? 24 A Yeah. Probably -- maybe five or six times 25 in the four, four and a half years that I worked for</p>	<p>1 Q Have you ever seen or -- have you ever 2 perceived Ms. Hall to be drunk in your presence? 3 A No. 4 Q You have no personal experience of being 5 in her presence when you believed she was 6 intoxicated; is that right? 7 A That's correct. 8 Q I think you testified that you talked with 9 Allan on May 18th. He called you from his car; is 10 that right? 11 A (Nodding.) 12 Q I believe you said he was emotional at the 13 time; is that right? 14 A Yes, he was emotional. 15 Q You weren't, at any point during that 16 call, physically in his presence, were you? 17 A No. We were simply on the phone. 18 Q You didn't have the opportunity to observe 19 him, obviously, then, right? 20 A No, I did not. 21 Q Is it possible that instead of being 22 drunk, perhaps he was just extremely emotional at 23 the time? 24 A Yes, that's possible. 25 Q In March and April of 2018, did you</p>